



APPLICATION ACCEPTED: November 4, 2014
BOARD OF ZONING APPEALS: February 4, 2015
TIME: 9:00 a.m.

County of Fairfax, Virginia

January 28, 2015

STAFF REPORT

APPLICATION SP 2014-SP-232

SPRINGFIELD DISTRICT

APPLICANT/OWNER: Ronald S. Federici

LOCATION: 13310 Compton Road, Clifton 20124

SUBDIVISION: Ivakota Farm

PARCEL: 75-1 ((1)) 24

LOT SIZE: 5.62 acres

ZONING: R-C, WS

ZONING ORDINANCE PROVISION: 8-914, 8-918

PROPOSAL: To permit an accessory dwelling unit and a reduction in minimum yard requirements based on error in building location to permit an accessory storage structure to remain 9.2 ft. from the northern side lot line and an accessory structure to remain 15.0 ft. from the southern side lot line

STAFF RECOMMENDATIONS:

Staff recommends denial of SP 2014-SP-232 for an accessory dwelling unit.

It should be noted that it is not the intent of the staff to recommend that the Board, in adopting any conditions, relieve the applicant/owner from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

Carmen Bishop

Excellence * Innovation * Stewardship
Integrity * Teamwork * Public Service

Department of Planning and Zoning
Zoning Evaluation Division
12055 Government Center Parkway, Suite 801
Fairfax, Virginia 22035-5509
Phone 703-324-1290 FAX 703-324-3924
www.fairfaxcounty.gov/dpz/



The approval of this application does not interfere with, abrogate or annul any easements, covenants, or other agreements between parties, as they may apply to the property subject to the application.

It should be noted that the content of this report reflects the analysis and recommendation of staff; it does not reflect the position of the Board of Zoning Appeals. A copy of the BZA's Resolution setting forth this decision will be mailed within five days after the decision becomes final.

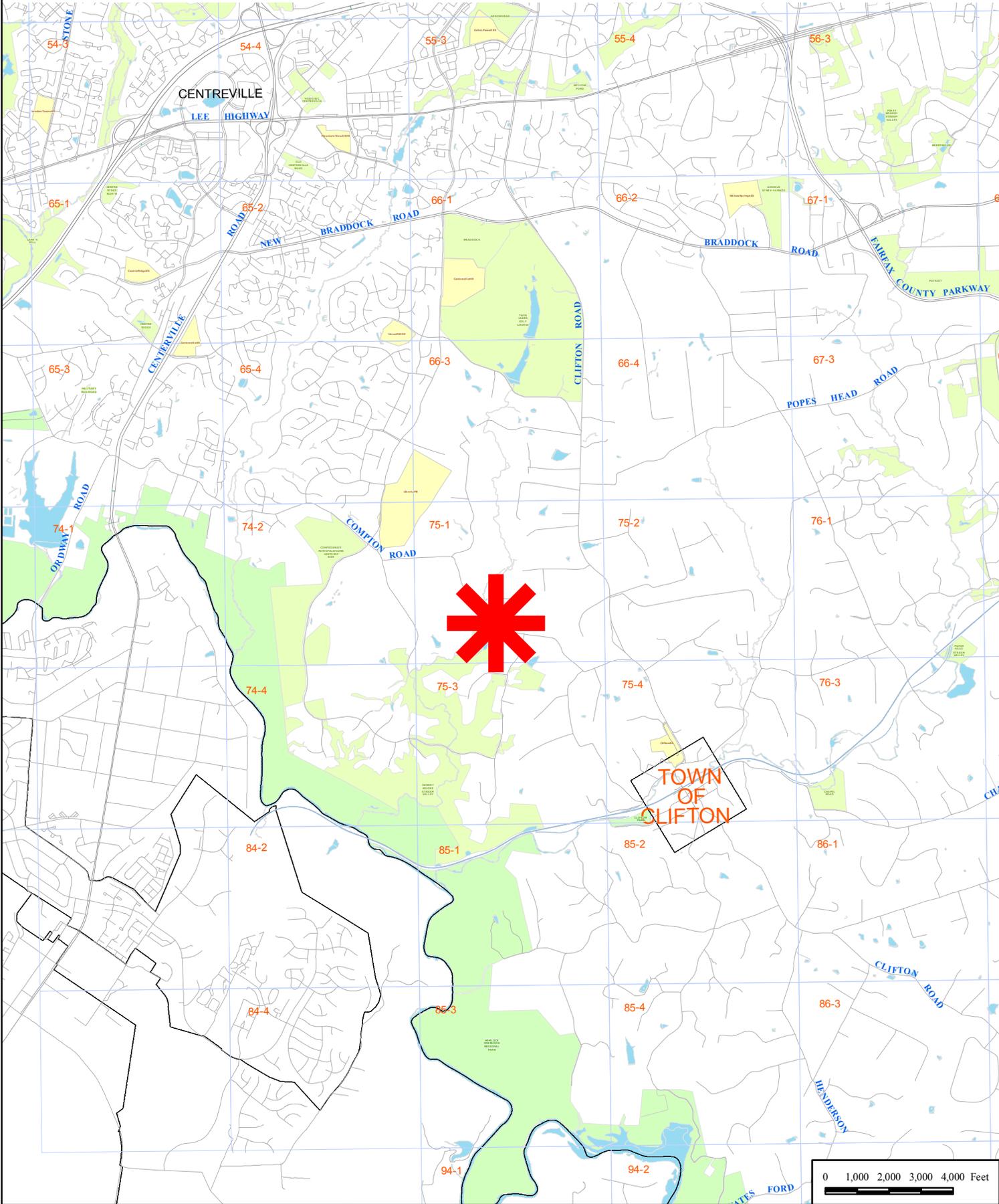
For information, contact the Zoning Evaluation Division, Department of Planning and Zoning, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035-5505, (703) 324-1290.
Board of Zoning Appeals meetings are held in the Board Room, Ground Level, Government Center Building, 12000 Government Center Parkway, Fairfax, Virginia 22035.



Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 48 hours advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

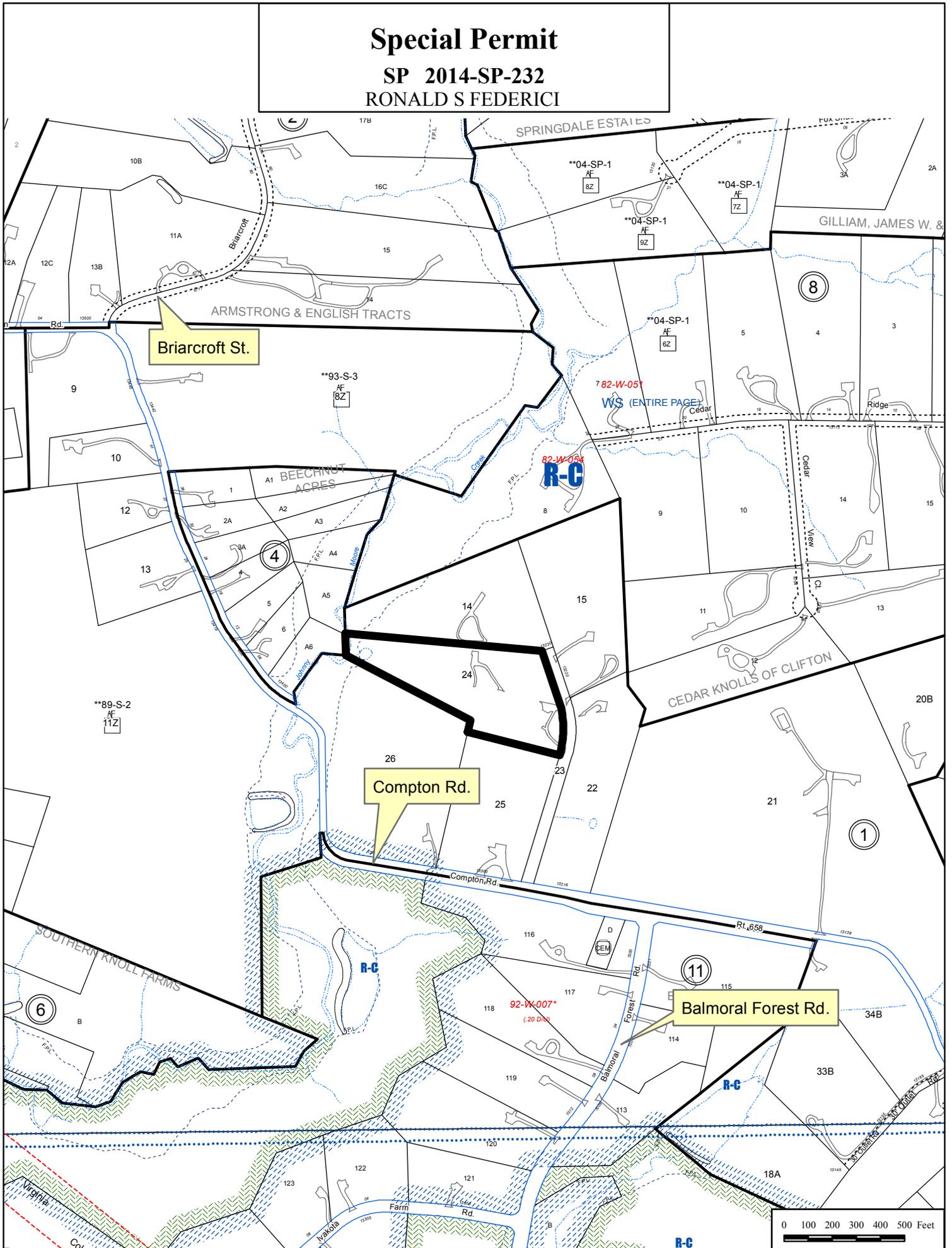
Special Permit

SP 2014-SP-232
RONALD S FEDERICI



Special Permit

SP 2014-SP-232
RONALD S FEDERICI



SPECIAL PERMIT REQUESTS

The applicant requests approval of a special permit for a detached accessory dwelling unit (ADU). The applicant also requests approval of a reduction in minimum yard requirements based on an error in building location to permit an accessory storage structure (Shed B) to remain 9.2 feet from the northern side lot line and an accessory structure (gazebo) to remain 15.0 feet from the southern side lot line.

A reduced copy of the special permit plat, titled "Plat For Special Permit The Land Of Ronald S. Federici" prepared by Digiulian Associates, P.C., dated revised September 19, 2014, is included at the front of this report.

The proposed conditions, separated for the ADU and errors in building location, the applicant's statement of justification and file photographs, and affidavit are contained in Appendices 1 through 4, respectively.

Error in Building Location

The applicant requests a reduction in minimum yard requirements based on an error in building location for two structures. An accessory storage structure, Shed B as identified on the plat, is 9.3 feet high and is located 9.2 feet from the northern side lot line, measured to the eave. As an accessory storage structure in excess of 8.5 feet in height, it is required to meet the minimum 20-foot side yard in accordance with Sect. 10-104 (10) of the Zoning Ordinance. According to the applicant's statement of justification, the shed was built in that location by the applicant without knowledge of the requirements of the Zoning Ordinance. The shed was identified in a Notice of Violation issued May 7, 2013 (Appendix 5). At that time the shed included an attached carport which has since been removed.

A 12.6-foot high gazebo is located 15 feet from the southern side lot line. As an accessory structure in excess of 7 feet in height, it is required to meet the minimum 20-foot side yard pursuant to Sect. 10-104 (12) of the Zoning Ordinance. The applicant has indicated that the gazebo was in existence when he purchased the property.

	Structure	Yard	Minimum Yard Required	Existing Location	Existing Reduction	Percent Reduction Requested
Special Permit	Shed B	Side	20.0 feet	9.2 feet (eave) 9.5 feet (wall)	10.8 ft (eave) 10.5 ft (wall)	54% (eave) 53% (wall)
	Gazebo	Side	20.0 feet	15.0 feet	5.0 feet	25%

The Urban Forest Management Division has recommended the installation of landscaping to screen the gazebo and shed (Appendix 6). Proposed conditions are included to address this issue.

Accessory Dwelling Unit

The applicant requests approval to use the original dwelling, located behind the principal dwelling, as an accessory dwelling unit (ADU). Since the property is greater than 2.0 acres in size, an ADU in a detached accessory structure is permitted with special permit approval. The applicant has indicated that he intends to reside in the ADU, or alternatively, if he is unable to reside in the ADU, one of his sons would reside in there. The ADU is located in a 2,028-square foot, two-story detached structure that includes a kitchen, dining room, family room, two bathrooms, and one bedroom. The structure contains four potential bedrooms on the second level. The applicant has indicated that one will be used as a bedroom and the other three will be used for storage, in addition to two storage rooms on the first floor. Based on a staff site visit on December 19, 2014, it appears that the structure is currently being used for office/storage space.

LOCATION AND CHARACTER

The 5.62-acre subject property is located on Compton Road in the Clifton area. The property and immediate vicinity are zoned to the R-C and Water Supply Overlay Districts. The property is surrounded by single family detached dwellings and vacant land. The property is developed with a two-story, brick dwelling with an attached garage and rear deck, a pool, hot tub, gazebo, the original dwelling/ADU, a barn and three sheds.



Source: Fairfax County GIS, 213 Imagery, with added annotations

According to the special permit plat, the principal dwelling contains approximately 6,687 square feet. The property is accessed from an outlet road from Compton Road and

contains asphalt driveways to the principal dwelling, the original dwelling and the barn. The property includes fencing that appears to be four to five feet in height. The property is served by well and septic, with separate septic fields for the principal dwelling and the original dwelling/ADU. The applicant submitted a letter from the Fairfax County Health Department regarding the septic system serving the proposed ADU which is included in Appendix 2, and indicates that the system is rated for a four bedroom capacity.

BACKGROUND

A summary of the background for this application is included in the table below.

Date	Description
Unknown	Original dwelling unit constructed.
Nov. 20, 1987	A building permit (#87323B0760) was obtained for construction of a 36 ft. by 48 ft. barn to be located 50 ft. from the northern side lot line. The barn passed final inspection on March 8, 1988. The barn is located 35.1 ft. from the property line, and has been included in Notices of Violation (NOV) dated Sept. 18, 1995 and May 7, 2013; however, this issue was resolved by a determination of vested rights issued September 6, 2013.
March 23, 1989	A building permit (#88347B0740) was issued for a new single family detached dwelling. A note on the permit application indicated that the original dwelling would become a stable with no living space. A new building permit (#90131B1250) was issued on May 11, 1990, due to a change in contractor, and the new permit maintained the note regarding the original dwelling unit. A Residential Use Permit was issued on March 7, 1991 for the new dwelling unit.
Sept. 18, 1995	A NOV was issued for a 9 ft. tall accessory storage structure and 2 barns that were located too close to the side lot line. The previous property owner appealed the NOV with regard to the barns. On March 26, 1996, the BZA upheld the Zoning Administrator's determination.
May 7, 1996	The BZA denied SP 96-S-003 to permit a reduction in minimum yard requirements based on errors in building location for the 9 ft. tall accessory storage structure and the 2 barns.
July 29, 1997	A NOV was issued for maintaining 2 dwelling units on the property.
Aug. 15, 1997	The Circuit Court of the Fairfax County awarded judgment in favor of the Zoning Administrator and ordered the property owner to bring the 9 ft. tall accessory storage structure and 2 barns into compliance. On Dec. 17, 1997, a building permit (#97351B0530) was issued for the relocation of the shed (Shed C on the current special permit plat). On June 20, 2001, an inspection confirmed that one of the barns had been removed, and the other one was no longer being used to shelter animals, thus resolving the compliance issues related to the barns.

Aug. 28, 1997	The previous property owner appealed the NOV issued July 29, 1997, arguing that the original dwelling unit was being used as servants' quarters. The Zoning Administrator noted that the dwelling unit was to become a stable according to the building permit for the new residence, and the use could not be considered servants' quarters because tenants had paid rent in excess of \$1,000/month, and performed limited grounds maintenance surrounding the dwelling unit. On Nov. 25, 1997, the BZA upheld the Zoning Administrator's determination.
Sept. 3, 2002	A NOV was issued for maintaining 2 dwelling units on the property. The case was closed on Sept. 23, 2002, when the occupants vacated the structure.
April 15, 2003	The applicant, Ronald S. Federici, purchased the property.
April 14, 2004	An inspection found the original dwelling unit again being used as a dwelling. In a follow-up phone conversation, the applicant stated that the unit was being used as servants' quarters and the inspector closed the case.
Sept. 20, 2011	A NOV was issued for operating a business in a residential district and with associated signage. The investigation found that the original dwelling unit was being used as office space. A Final Order of the Circuit Court of Fairfax County was issued on Feb. 15, 2013, in favor of the Zoning Administrator. This case remains open.
March 22 & 28, 2013	Inspections found that the basement of the principal dwelling unit contained a bedroom, wet bar and full second kitchen, and an accessory storage structure and attached carport (Shed B) had been constructed 2 ft. from the side lot line, and the barn was again being used to shelter horses.
May 7, 2013	A NOV was issued for maintaining 3 dwelling units on the property and for the locations of the barn and Shed B with attached carport being too close to the side lot line.
May 7, 2013	A separate NOV was issued for exceeding the occupancy limits of Sect. 2-502, due to the number of unrelated people living at the property at the time. The applicant appealed the NOV, and upon review, it was determined that the occupants met the Zoning Ordinance requirements and the case was closed.
June 4, 2013	The applicant appealed the NOV of May 7, 2013, regarding the four violations: use of the basement of the principal dwelling as an ADU, use of the original dwelling unit as an ADU, the location of the barn, and the location of Shed B with attached carport. Public hearings have been held, with the decision deferred and currently scheduled for April 1, 2015.
Feb. 6, 2014	A DCC inspection found that the 3 dwelling units remained. The inspection noted that the shed had been reduced to 8.5 ft. or less in height and the carport had been removed, resolving the compliance issues. (The shed is noted on the special permit plat to be 9.3 ft. in height, and its location is addressed by the current application.)

Jan. 16, 2015	Approval by the Zoning Permit Review Branch of the second kitchen in the basement of the principal dwelling (Appendix 7); thus resolving the issue regarding an ADU in the basement of the principal dwelling.
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The only similar case history in the vicinity is for the subject property, where, as noted above, the BZA denied SP 96-S-003 on May 7, 1996.

ANALYSIS

Comprehensive Plan Provisions

Plan Area: Area III, Pohick Planning District
Planning Sector: P3, Johnny Moore Community Planning Sector
Plan Map: Residential, 0.1 - 0.2 du/ac

Zoning Ordinance Requirements

The application must meet the standards of the following sections of the Zoning Ordinance, which are included in Appendix 9:

- Sect. 8-006, General Special Permit Standards
- Sect. 8-903, Group 9 Standards
- Sect. 8-914, Provisions for Approval of Reduction of the Minimum Yard Requirements Based on an Error in Building Location
- Sect. 8-918, Additional Standards for Accessory Dwelling Units

The standards, as they relate to the request for an ADU, are discussed below.

General Special Permit Standards (Sect. 8-006)

<i>Standards 1 and 2</i> <i>Comprehensive Plan/ Zoning District</i>	The Comprehensive Plan recommends residential uses and the property is developed with a residential use. The Zoning Ordinance allows an accessory dwelling unit with special permit approval. The proposed ADU consists of a four bedroom dwelling, which presents the potential for a second principal dwelling on the property. Therefore, in staff’s opinion, the proposed use is not in harmony with the Comprehensive Plan and the general purpose and intent of the R-C District.
<i>Standard 3</i> <i>Adjacent Development</i>	The dwelling is located over 40 feet from the south side lot line. There is no screening on the subject property between the dwelling and the side lot line; however, the adjoining property is heavily wooded. Staff believes that although proximity to adjoining properties is not of concern, maintaining two principal dwellings on the property would not be harmonious with the use or development of neighboring properties.

Standard 4 <i>Pedestrian/Vehicular Traffic</i>	The large lots in the vicinity and lack of sidewalks reduce pedestrian access to the property. While a one-bedroom ADU would not significantly impact vehicular traffic, the potential for additional occupants presents the possibility of added trips to the site.
Standard 5 <i>Landscaping/Screening</i>	The ADU is situated over 40 feet from the south side lot line, and the adjoining property is wooded in this location.
Standard 6 <i>Open Space</i>	There is no open space requirement for the R-C District.
Standard 7 <i>Utilities, Drainage, Parking and Loading</i>	Facilities are in place to serve the accessory dwelling unit.
Standard 8 <i>Signs</i>	Next to the front door is a sign identifying the ADU as Apartment A. All signage is required to be in conformance with Article 12 of the Zoning Ordinance.

Group 9 Standards (Sect. 8-903)

Standard 1 <i>Lot Size and Bulk Regulations</i>	The property complies with the lot size and bulk regulations for the R-C District, with the exception of the accessory storage structure and accessory structure that are part of this application.
Standard 2 <i>Performance Standards</i>	The use will comply with the performance standards set forth in Article 14 of the Zoning Ordinance.
Standard 3 <i>Site Plan</i>	The structure is not subject to site plan review.

Additional Standards for Accessory Dwelling Units (Sect. 8-918)

Standard 1 <i>Only One ADU per Single Family Detached Dwelling</i>	The application requests approval of one ADU on a property occupied by a single family detached dwelling. A second kitchen is located in the basement of the principal dwelling, which has received approval by the Zoning Permit Review Branch. During the staff site visit of December 19, 2014, there were no beds in the basement.
Standard 2 <i>May be Located in Freestanding Structure on Lots 2 Acres or Larger</i>	The property consists of 5.62 acres, which allows the ADU to be located in a freestanding structure. The original dwelling and the principal dwelling are situated more than 250 feet apart, and other than being connected by an asphalt driveway, the two structures are not located so as to provide a functional relationship between the ADU and the principal dwelling.
Standard 3 <i>GFA Shall Not Exceed 35%</i>	The gross floor area of the ADU does not exceed 35% of the total gross floor area of the principal unit and accessory structure. The ADU structure represents approximately 23.3% of the total GFA.

<p>Standard 4 <i>Max. 2 Bedrooms</i></p>	<p>The application indicates that the ADU includes one bedroom. However, the structure is essentially a four bedroom dwelling, where three of the bedrooms are labeled as storage. The size of the ADU and its potential for four bedrooms to be occupied is of concern and relates to the character of the district as noted below under Standard 8.</p>
<p>Standard 5 <i>Occupancy Standards</i></p>	<p>It is unclear whether the application satisfies the occupancy standards. This standard is discussed below.</p>
<p>Standard 6 <i>Reasonable Access for a Disabled Person</i></p>	<p>The applicant has indicated that he will occupy the ADU, and that he is not disabled. If the applicant's son were to occupy the ADU, it is unclear whether the dwelling meets his needs for reasonable access and mobility.</p>
<p>Standard 7 <i>Sufficient Parking</i></p>	<p>The property includes ample parking.</p>
<p>Standard 8 <i>Will Not Modify or Disrupt Character of Neighborhood</i></p>	<p>Staff believes that the use of the ADU as proposed would not constitute sufficient change to modify or disrupt the predominant character of the neighborhood. However, if the ADU were to be used as a second principal dwelling, this would not be in keeping with the purpose and intent of the Residential-Conservation District to provide for low density residential uses in an open, rural area. Given the size of the ADU, staff is concerned that the limitations on bedrooms and occupancy in Standards 4 and 5 will not remain in conformance. Further, a second principal dwelling is not in character with the low density residential area.</p>
<p>Standard 9 <i>Regulations for Safety, Health, Sanitation</i></p>	<p>This standard requires any ADU to meet applicable regulations for building, safety, health, and sanitation. Although the ADU is an older dwelling, staff is not aware of any building code or property maintenance concerns.</p>
<p>Standard 10 <i>Recorded</i></p>	<p>A condition is proposed for the approval to be recorded among Fairfax County land records.</p>
<p>Standard 11 <i>Inspection</i></p>	<p>A condition is proposed for the owner to make provisions to allow inspections of the property by County personnel during reasonable hours upon prior notice.</p>
<p>Standard 12 <i>Approved for 5 Years</i></p>	<p>A condition is proposed addressing this standard.</p>
<p>Standard 13 <i>Approval Prior to July 27, 1987</i></p>	<p>This standard is not applicable as the ADU was not approved prior to July 27, 1987.</p>

Sect. 8-918 (5) specifies occupancy standards for the ADU and the principal dwelling unit. It has been represented to staff that the applicant's health is tenuous, and he has been out-of-state for a lengthy period of time for medical treatment and it is uncertain when he may return. Given this situation, conformance with the occupancy standards is of concern. Paragraph A. under this section requires one of the dwelling units to be owner occupied. The applicant is the owner of the property; thus, this requirement is satisfied assuming the

applicant returns to the property. Paragraph B requires one of the dwellings to be occupied by a person or persons who qualify as elderly and/or disabled. The applicant is over 55 years of age; however, with his tenuous health, staff requested that the applicant identify whether any additional residents qualify as elderly and/or disabled. The applicant's agent provided information, included in Appendix 3, consisting of a court order appointing the applicant as co-guardian for his son and a Social Security check. The applicant should provide the certification by the Social Security Administration that the son is permanently and totally disabled in accordance with Paragraph 5.B.(2) of Sect. 8-918 of the Zoning Ordinance. Also, it is unclear whether the son would remain on the property should the applicant predecease the co-guardian. Paragraph C limits occupancy of the ADU to not more than two persons not necessarily related by blood or marriage. The proposed use of the ADU by the applicant or his son meets this standard. However, the availability of three additional bedrooms, and the history of code compliance issues on the property present a concern. Paragraph C also limits occupancy of the principal dwelling to one family or a group of not more than four persons not necessarily related by blood or marriage. It has been indicated to staff that the applicant's sons reside in the principal dwelling, which meets this portion of the standard. Given the above concerns, staff requested that the applicant identify how the structure would be converted to a permitted use, should the occupancy standards of the Zoning Ordinance no longer be met. This information has not been provided.

CONCLUSION

Staff believes that the request for an accessory dwelling unit is not in conformance with the applicable Zoning Ordinance provisions, in particular, General Special Permit Standards 1, 2 and 3, and Additional Standards for Accessory Dwelling Units 4, 5, 6 and 8. Additional information regarding occupancy and conversion of the dwelling to a permitted use should be provided.

RECOMMENDATION

Staff recommends denial of SP 2014-SP-232 for an accessory dwelling unit. If it is the intent of the Board of Zoning Appeals (BZA) to approve this application for an accessory dwelling unit, the BZA should condition its approval by requiring conformance with the proposed conditions set forth in Appendix 1.

Staff does not make recommendations relating to applications for reduction to minimum yard requirements based on error in building location. If it is the intent of the BZA to approve this application relating to the reduction of the minimum yard requirements based on errors in building location, the BZA should condition its approval by requiring conformance with the conditions set forth in Appendix 2 of this report.

It should be noted that it is not the intent of staff to recommend that the Board, in adopting any conditions, relieve the applicant/owner from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The approval of this application

does not interfere with, abrogate or annul any easements, covenants, or other agreements between parties, as they may apply to the property subject to this application.

It should be further noted that the content of this report reflects the analysis and recommendations of staff; it does not reflect the position of the Board of Zoning Appeals.

APPENDICES

1. Proposed Development Conditions – Accessory Dwelling Unit
2. Proposed Development Condition – Error in Building Location
3. Statement of Justification and File Photographs
4. Affidavit
5. Notice of Violation, May 7, 2013
6. Urban Forest Management Division Review
7. Second Kitchen Request
8. Permit History
9. Applicable Zoning Ordinance Provisions

Proposed Development Conditions

SP 2014-SP-232

January 28, 2015

If it is the intent of the Board of Zoning Appeals to approve SP 2014-SP-232 located at 13310 Compton Road, Tax Map 75-1 ((1)) 24, to permit an accessory dwelling unit pursuant to Section 8-918 of the Fairfax County Zoning Ordinance, staff recommends that the Board condition the approval by requiring conformance with the following development conditions:

1. This special permit is approved for the location of the accessory dwelling unit, as shown on the special permit plat, titled "Plat For Special Permit The Land Of Ronald S. Federici" prepared by Digiulian Associates, P.C., dated revised September 19, 2014.
2. The approval for the accessory dwelling unit is granted to the applicant only, Ronald S. Federici, and is not transferable without further action of the Board, and is for the location indicated on the application, 13310 Compton Road, Clifton, and is not transferable to other land.
3. These conditions shall be recorded by the applicant among the land records of Fairfax County for this lot. A certified copy of the recorded conditions shall be provided to the Zoning Permit Review Branch, Department of Planning and Zoning.
4. A copy of this special permit shall be posted in a conspicuous place within the accessory dwelling unit and be made available to all departments of the County of Fairfax.
5. The occupants of the principal dwelling and the accessory dwelling unit shall be in accordance with Par. 5 of Sect. 8-918 of the Zoning Ordinance which states, in part, that one of the dwelling units shall be occupied by a person or persons who qualify as elderly (55 years of age or older) and/or permanently and totally disabled.
6. Provisions shall be made for the inspection of the property by County personnel during reasonable hours upon prior notice.
7. The accessory dwelling unit shall meet the applicable regulations for building, safety, health and sanitation.
8. The accessory dwelling unit shall be approved for a period of five years from the final approval date of the special permit and may be extended for five year periods

with prior approval of the Zoning Administrator in accordance with Sect. 8-012 of the Zoning Ordinance.

9. If the use of the accessory dwelling unit ceases and/or the property is sold or otherwise conveyed, the accessory dwelling unit shall be converted to a use permitted by the Zoning Ordinance, or if the property is sold or conveyed, a special permit amendment may be submitted to permit the continued use of an accessory dwelling unit.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

Pursuant to Sect. 8-015 of the Zoning Ordinance, this special permit shall automatically expire, without notice, six (6) months after the date of approval unless the use has been established as noted above. The Board of Zoning Appeals may grant additional time to obtain to establish the use if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special permit. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

Proposed Development Conditions**SP 2014-SP-232****January 28, 2015**

If it is the intent of the Board of Zoning Appeals to approve SP 2014-SP-232 located at 13310 Compton Road, Tax Map 75-1 ((1)) 24, to permit a reduction in minimum yard requirements based on error in building location to permit an accessory storage structure to remain 9.2 feet from the northern side lot line and an accessory structure to remain 15.0 feet from the southern side lot line pursuant to Section 8-914 of the Fairfax County Zoning Ordinance, staff recommends that the Board condition the approval by requiring conformance with the following development conditions:

1. This special permit is approved for the location of the accessory structure (gazebo) and accessory storage structure (Shed B) as shown on the special permit plat, titled "Plat For Special Permit The Land Of Ronald S. Federici" prepared by Digjulian Associates, P.C., dated revised September 19, 2014.
2. Three large shrubs or two small trees shall be installed between the gazebo and the southern property line within twelve months of special permit approval.
3. Two evergreen trees, such as Green Giant arborvitae, one off the northwest corner of Shed B and one on the northeast side of the path from the barn to Shed B, shall be installed within twelve months of special permit approval.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

Pursuant to Sect. 8-015 of the Zoning Ordinance, this special permit shall automatically expire, without notice, six (6) months after the date of approval unless the use has been established as noted above. The Board of Zoning Appeals may grant additional time to obtain to establish the use if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special permit. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

FEIDLER & LONG, PLLC

A PROFESSIONAL LIMITED LIABILITY COMPANY

from the desk of
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 Virginia, D.C.
 and Maryland

May 9, 2014

Zoning Evaluation Division Fairfax County
 Department of Planning and Zoning
 12055 Government Center Parkway
 Suite 801
 Fairfax, VA 22035

RECEIVED
 Department of Planning & Zoning

MAY 09 2014

Zoning Evaluation Division

Re: Appeal A-2013-SP-015
 Ronald S. Federici
 13310 Compton Road
 Clifton, VA 20124
 Tax Map 75-1 (1) 24
 Special Permit Application

Dear Sir/Madam,

Please be advised that I am the attorney for Dr. Ronald S. Federici and his designated agent/contact person for the above referenced matter. On behalf of Dr. Federici, I submit the following in response to Fairfax County Zoning Ordinance 8-918 "Additional Standards for Accessory Dwelling Units". The numbering below corresponds to the numbering in said ordinance.

1. There is only one single family detached dwelling on the subject property, 13310 Compton Road, Clifton, VA 20124 ("Subject Property"), and only one accessory dwelling unit on the Subject Property.
2. The Subject Property is greater than two (2) acres (it is in fact 5.617 acres according to Fairfax County tax records – see attached Exhibit "A") and the accessory dwelling unit is a freestanding structure.
3. The gross floor area of the accessory dwelling unit does not exceed thirty-five percent (35%) of the gross floor area of the accessory freestanding structure and the principal dwelling, as the principal dwelling is 4,650 square feet and the freestanding accessory dwelling unit is 2,352 square feet, per Fairfax County tax records. (See attached Exhibit "A")
4. The accessory dwelling unit does not contain more than two (2) bedrooms. Indeed, only one room will be used for bedroom purposes.
5. (A) Dr. Federici is the sole owner of the Subject Property and will occupy one of dwelling units.

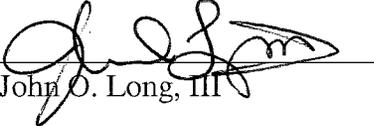
- (B) Dr. Federici is over the age of fifty-five (55) (copy of Virginia driver's license is attached as Exhibit "B") and will occupy the freestanding accessory dwelling structure.
- (C) The principal dwelling unit will be occupied by a group of not more than four (4) persons who are related by adoption.
6. Section 6 does not apply. The accessory dwelling unit will not be occupied by a disabled person, as Dr. Federici is not disabled.
7. There is sufficient parking on the Subject Property for both the principal dwelling unit and the accessory dwelling unit, as evidenced by the plats submitted with the Special Use Permit application.
8. The accessory dwelling unit will not constitute sufficient change to modify or disrupt the predominant character of the neighborhood, as the accessory dwelling structure has been in existence for over 75 years.
9. The accessory dwelling structure meets the applicable regulations for building, safety, health and sanitation.
10. Upon approval of a special use permit, there will be recorded among the land records of Fairfax County a copy of the BZA's approval, including all accompanying conditions, a description of the Subject Property, and said approval shall be indexed in the Grantors Index in the name of Ronald S. Federici.
11. Dr. Federici will make provisions to allow inspection of the Subject Property by Fairfax County personnel during reasonable hours upon prior notice.
12. Dr. Federici seeks approval of the Special Use Application in accordance with this Section of the relevant ordinance.
13. This section of the ordinance does not apply.

Please let me know if any further information of any kind is required.

Very truly yours,

FEIDLER & LONG, PLLC

By:


John O. Long, III

County of Fairfax
Department of Planning and Zoning
Zoning Evaluation Division
12055 Government Center Parkway
Suite 801
Fairfax, VA 22035

Attn: Application Acceptance Section

Re: Special Permit Application – Ronald S. Federici
SP 2014-0302
13310 Compton Road, Clifton, VA 20124
("Subject Property")

Deficiency Item 5.00

Statement of Justification for Accessory Structure (Gazebo-15' from side lot line; and Shed(B) 9.5' from side lot line).

This Statement of Justification for Accessory Structure ("Statement") is submitted with respect to that certain gazebo (Gazebo") and Shed(B) ("Shed")(collectively "Structures") located on the property made the subject of the above referenced Application for a Special Permit ("Application") and is intended to address specifically the provisions of Fairfax County Zoning Ordinance 8-914(2) ("Ordinance") and the subsections made a part thereof. The responses set forth below correspond to said subsections.

A. Due to the height of the Structures, the Ordinance requires the Structures to be at least 20' from the side property line. The Gazebo is located only 15' from the side property line and the Shed is only 9.5 feet from the side property line therefore they do not meet the requirements of the Ordinance. The error in location for each Structure exceeds 10% of the measurement involved.

C. The Gazebo was in existence at the time Dr. Federici purchased the property. At the time the Shed was built, it was sited based on aesthetics and convenience, so as to enhance the utility of the home and horse area. The Shed was built without knowledge of the requirements of the Ordinance and the Gazebo was built by the previous owner.

D. The present location of the Structures will not in any way impair the purpose and intent of the Ordinance because the error in location is de minimus, and for the reasons set forth in (E) immediately below.

E. The location and use of the Structures will not be detrimental to the use and enjoyment of other property in the immediate vicinity. There are no other structures on the property immediately adjacent to the Gazebo, which is located well over 100 feet from the nearest

occupied home, the nearest homes being located on the other side of Dr. Federici's property, not the side where the Gazebo is located. The Shed is close to a barn and does not materially change the view of the neighbors, who have never raised objection.

F. The location of the Structures do not cause an unsafe condition with respect to either property or public streets because they are located in areas that are not used by others and are located a significant distance from any public street.

G. The Gazebo is a very solid structure made up in part of forged steel and concrete. It is also covered by grape vines grafted from a family orchard dating back over 100 years. To force compliance with the minimum yard requirements in this instance would cause unreasonable hardship and involve unreasonable expense in light of the totality of factors applicable to this particular situation. The Shed is situated on a concrete foundation and is less than one foot above the permitted height.

H. The reduction or modification of the side property line requirement will not result in an increase density or floor area ration from that permitted by the applicable zoning district regulations.

I trust you will find the foregoing responsive and supportive of my request for a variance or special exception from the current zoning requirements.

Deficiency Item 5.08

Statement of Justification Regarding Hazardous Substances

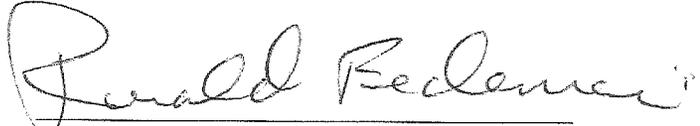
Regarding the Subject Property, Dr. Ronald S. Federici has no knowledge of i) any hazardous or toxic substances as set forth in title 40, Code of Federal Regulations Parts 116.4; 302.4; and 355; ii) nor of any hazardous waste as set forth in Commonwealth of Virginia/Department of Waste Management Regulations VR 672-10-1-Virginia Hazardous Waste management Regulations; iii) nor of any petroleum products as defined in Title 40, Code of Federal Regulations Part 280, to be generated, utilized, stored treated and/or disposed of on site; iv) nor of any existing or proposed storage tanks or containers.

Deficiency Item 5.09

Statement of Justification Regarding Proposed Development

Dr. Federici is not making his application in connection with any proposed development on the Subject Property. Rather, Dr. Federici desires to make use of existing structures (an accessory dwelling structure and a Gazebo) that are already in existence and have been in existence since 1913 and 2003, respectively.

To that end, the property will conform to the provisions of all applicable ordinances, regulations, and adopted standards or, if any waiver, exception, or variance is applicable to the property, Dr. Federici has/will specifically note the justification for such modification(s).

A handwritten signature in cursive script that reads "Ronald S. Federici". The signature is written in dark ink and is positioned above a horizontal line.

Dr. Ronald S. Federici
Special Permit Applicant

Bishop, Carmen J

From: John Long <JLong@flklaw.com>
Sent: Wednesday, January 14, 2015 5:42 PM
To: Bishop, Carmen J
Subject: Re: Federici, Ronald S.
Attachments: DOC150114-002.pdf; DOC150114-003.pdf

Carmen,

Attached is a copy of an Order from the Fairfax County Circuit Court, signed November 5, 2003, appointing Dr. Federici as the permanent Guardian and Conservator for his son, Constantin Marcel Federici, who is permanently disabled as a result of fetal alcohol syndrome; mental retardation; severe hemophilia and orthopedic damage. Marcel currently resides at the home at 13310 Compton Road, Clifton, VA 20124 with the family.

Also attached is a copy of Marcel's disability check from Social Security, which Dr. Federici receives each month as Marcel's Guardian/Conservator.

If Dr. Federici were unable to reside in the Accessory Dwelling Structure for any reason, Marcel would become the occupant as a way to establish some level of independence for him, while maintaining the close supervision of the family in the main home.

Please let me know if you have any questions or require any further information from me.

Regards,
John

John O. Long, III
FEIDLER & LONG, PLLC
Attorneys and Counsellors at Law
(703) 426-1914
AMERICAN HERITAGE TITLE AND ESCROW, LLC
Real Estate Settlement Services
(703) 426-1916
5240 Lyngate Court
Burke, VA 22015
fax (703) 426-2805

CONSTANTIN

FEDERER MONTHLY SSI

Disability

15-51
000
Kansas State Community

K 932,455,091



Check No.

4033 30007181
0000150108C2DM

01 14 15 28045300 KANSAS CITY, MO
000239284439 4033 30007181 S



Pay to
the order of

RONALD STEVEN FEDERICI
FOR CONSTANTIN M
FEDERICI
13310 COMPTON RD
CLIFTON VA 20124 1512

VOID AFTER ONE YEAR



022835

SOC SEC FOR DEC

⑆10337⑆ ⑆000000518⑆ 30007181⑆ 070115

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

CONSTANTIN MARCEL FEDERICI

Chancery No.: 177237

Respondent.

ORDER

THIS MATTER is before this Honorable Court on the Motion of Co-Guardian and Co-Conservator Ronald S. Federici For the Appointment of a New Co-Guardian and Co-Conservator for the person and property of Constantin Marcel Federici ("Ward"), pursuant to §37.1-134.6 et seq of the Code of Virginia, 1950, as amended, and

Upon the appointment of Myron Teluk, Esquire as Guardian ad litem for the Ward, upon Notice of Hearing served via first-class mail on Gina Higbie and upon entry of and publication of an Order of Publication and Notice of Hearing served on Jane Federici.

It Appearing that on May 2, 2003, an Order was entered by this Court appointing Ronald S. Federici and Gina Higbie Co-Guardians and Co-Conservators of the Ward; and

It Further Appearing that Ronald S. Federici desires to remove Gina Higbie as Co-Guardian and Co-Conservator of the Ward; and

It Further Appearing that Jennifer A. Brust, Esquire is qualified to serve as the Co-Guardian and Co-Conservator of the Ward and that if Ronald S. Federici shall predecease Jennifer A. Brust, Esquire, Jennifer A. Brust, Esquire shall consult with qualified professionals to assist her in serving both the physical and emotional needs of the Ward; and

Att'y
CA
GON/Kous
Zombing
Co.

[Handwritten mark]

NO CIV 11-7-03

4. Co-Guardian, Ronald S. Federici is directed to pay Myron Teluk, Guardian ad litem for the Respondent, the amount of \$506.⁰⁰ for his fees and costs incurred in this matter.

ENTERED this 5 day of February, 2003.

Kathleen H. Buckley
Circuit Court Judge

I ASK FOR THIS:

Jennifer A. Brust

Jennifer A. Brust, Esquire (VSB #29707)
Counsel for Ronald S. Federici
2000 North 14th Street, Suite 100
Arlington, Virginia 22201
Telephone: (703) 525-4000
Fax: (703) 525-2207

SEEN AND AGREED:

Myron J. Teluk

Myron J. Teluk, Esquire
Guardian ad Litem
4000 Legato Road
Suite 230
Fairfax, Virginia 22033
Telephone: (703) 273-4848
Fax: (703) 273-4266



County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

November 17, 2014

John O. Long III
Fiedler & Long, PLLC
5240 Lyngate Court
Burke, VA 22015

RE: Zoning Application Comments for Mr. Federici's Property concerning the Onsite Sewage Disposal System that serves the Accessory Dwelling Structure at 13310 Compton Rd, Clifton, VA 20124; Tax Map: 0751 01 0024

Dear Mr. Long:

I have reviewed a copy of the Fairfax County Zoning Application that you emailed me on November 13, 2014 for your client Mr. Ronald S. Federici, the property owner at the above referenced address. The special permit application filed requests for the "Back Home to be considered as an Accessory Dwelling Unit". According to Health Department records the structure that you referring to has a septic system rated for a four bedroom capacity and private well that were approved in 1974. As long as the are no plans to add on to this structure and owner has no plans to exceed the bedroom design for the septic system, the Health Department has no problem with this structure being considered as an accessory dwelling unit.

If you require further information concerning this matter, please contact our office at (703) 246-2201, between 8:00 a.m. and 4:30 p.m., Monday through Friday.

Sincerely,

Kevin R. Wastler
Environmental Health Supervisor

krw/aw

RECEIVED
Department of Planning & Zoning

NOV 20 2014

Zoning Evaluation Division

Fairfax County Health Department
Division of Environmental Health
Technical Review and Information Resources
10777 Main Street, Suite 102, Fairfax, VA 22030
Phone: 703-246-2510 TTY: 711 Fax: 703-278-8157
www.fairfaxcounty.gov/hd



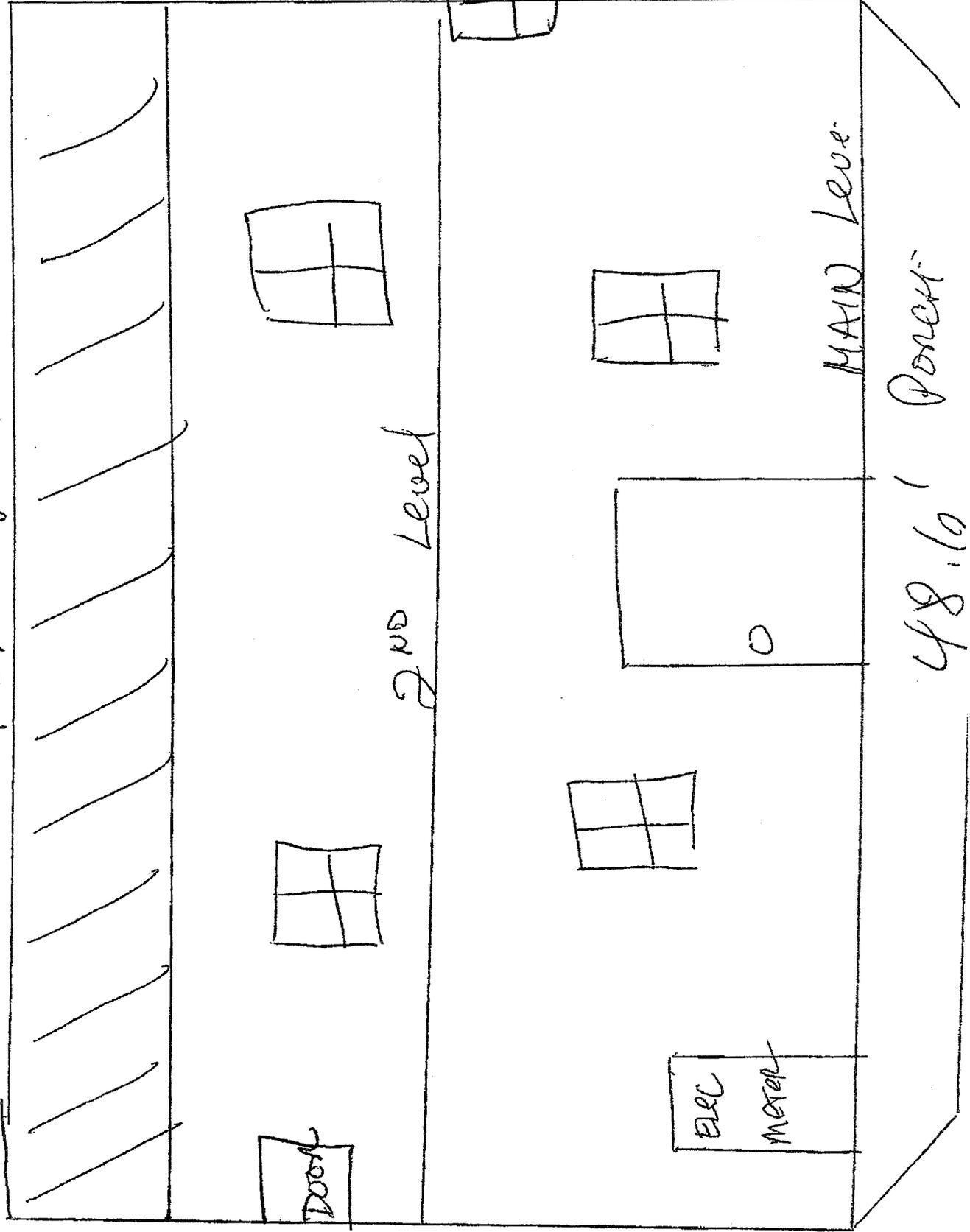
OCT 30 2014

Zoning Evaluation Division

OUTSIDE

FLAT ROOF

Accessory Dwellings



Total \square
1425.87

= 17.58%
of total gross
floor area

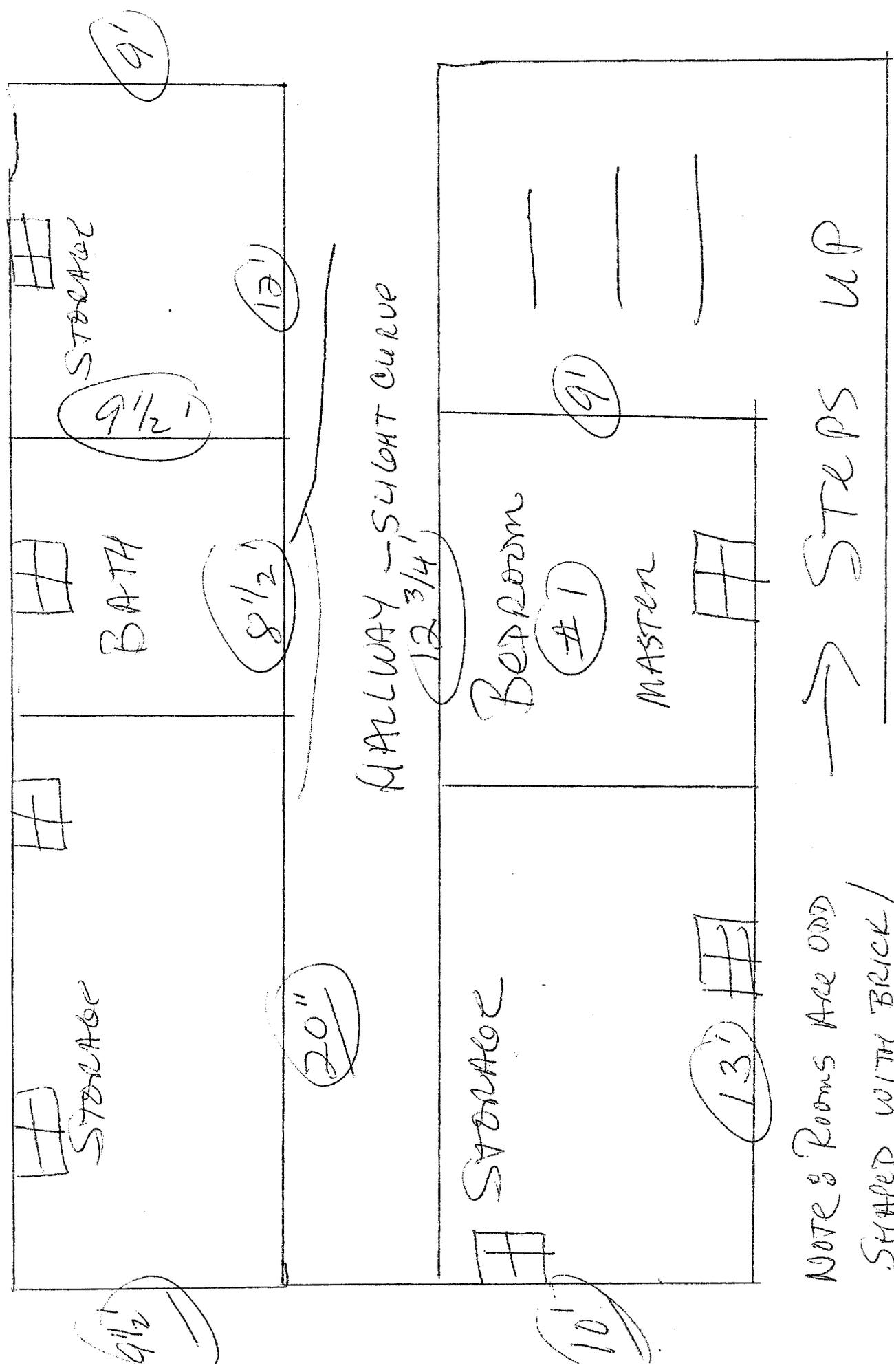
2ND Level

MAIN Level

48.6' Porch

24.6'

2ND FLOOR - (4) Rooms + BATH



NOTE: Rooms Are ODD
 SHAPED WITH BRICK /
 CORNERS CUT CONSTRUCTION
 → STEPS UP



Gazebo





View of Shed B, facing west



View of Shed B, facing west



View of Shed B, facing east

Accessory Dwelling Unit





12.19.2014



12.19.2014



12.19.2014



12.19.2014



12.19.2014



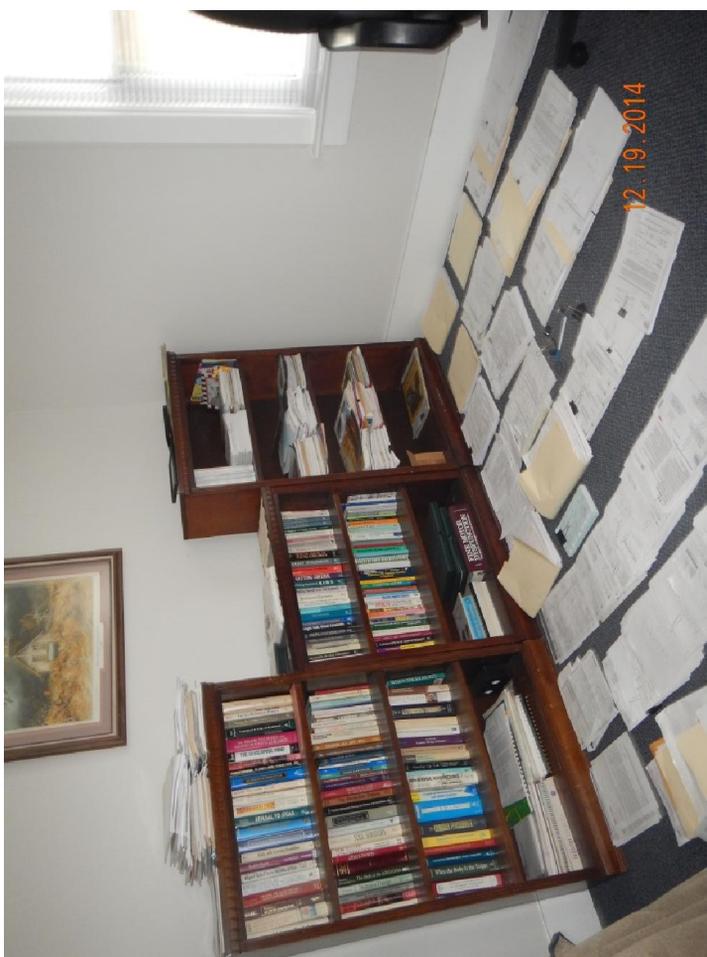
12.19.2014



12.19.2014



12.19.2014



Application No.(s): _____
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: APRIL 7, 2014
(enter date affidavit is notarized)

125459

I, RONALD FEDERICI / JOHN, do hereby state that I am an
(enter name of applicant or authorized agent) LONG, ESQ

(check one) applicant
 applicant's authorized agent listed in Par. 1(a) below

Ronald Federici

and that, to the best of my knowledge and belief, the following is true:

1(a). The following constitutes a listing of the names and addresses of all **APPLICANTS, TITLE OWNERS, CONTRACT PURCHASERS, and LESSEES** of the land described in the application,* and, if any of the foregoing is a **TRUSTEE,**** each **BENEFICIARY** of such trust, and all **ATTORNEYS and REAL ESTATE BROKERS**, and all **AGENTS** who have acted on behalf of any of the foregoing with respect to the application:

(NOTE: All relationships to the application listed above in BOLD print must be disclosed. Multiple relationships may be listed together, e.g., Attorney/Agent, Contract Purchaser/Lessee, Applicant/Title Owner, etc. For a multiparcel application, list the Tax Map Number(s) of the parcel(s) for each owner(s) in the Relationship column.)

NAME (enter first name, middle initial, and last name)	ADDRESS (enter number, street, city, state, and zip code)	RELATIONSHIP(S) (enter applicable relationships listed in BOLD above)
ATTY JOHN	5240 LYNDALE	
LONG, ESQ.	Court	ATTY
RONALD FEDERICI	Burke, VA 13310 COMPTON RD	(OWNER)

(check if applicable) There are more relationships to be listed and Par. 1(a) is continued on a "Special Permit/Variance Attachment to Par. 1(a)" form.
Clifton, VA 20124

* In the case of a condominium, the title owner, contract purchaser, or lessee of 10% or more of the units in the condominium.
** List as follows: Name of trustee, Trustee for (name of trust, if applicable), for the benefit of: (state name of each beneficiary).

CAB

Application No.(s): _____
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 04-07-2014
(enter date affidavit is notarized)

125459

1(b). The following constitutes a listing*** of the **SHAREHOLDERS** of all corporations disclosed in this affidavit who own 10% or more of any class of stock issued by said corporation, and where such corporation has 10 or less shareholders, a listing of all of the shareholders:

(NOTE: Include SOLE PROPRIETORSHIPS, LIMITED LIABILITY COMPANIES, and REAL ESTATE INVESTMENT TRUSTS herein.)

CORPORATION INFORMATION

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)

NONE

DESCRIPTION OF CORPORATION: (check one statement)

- There are 10 or less shareholders, and all of the shareholders are listed below.
- There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF SHAREHOLDERS: (enter first name, middle initial, and last name)

W/A

(check if applicable) There is more corporation information and Par. 1(b) is continued on a "Special Permit/Variance Attachment 1(b)" form.

*** All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER or LESSEE* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

Application No.(s): _____
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 04-07-2014
(enter date affidavit is notarized)

125459

1(c). The following constitutes a listing*** of all of the PARTNERS, both GENERAL and LIMITED, in any partnership disclosed in this affidavit:

PARTNERSHIP INFORMATION

PARTNERSHIP NAME & ADDRESS: (enter complete name, number, street, city, state, and zip code)

NONE

(check if applicable) The above-listed partnership has no limited partners.

NAMES AND TITLE OF THE PARTNERS (enter first name, middle initial, last name, and title, e.g. General Partner, Limited Partner, or General and Limited Partner)

N/A

(check if applicable) There is more partnership information and Par. 1(c) is continued on a "Special Permit/Variance Attachment to Par. 1(c)" form.

*** All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until: (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

Application No.(s): _____

(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 04-07-2014
(enter date affidavit is notarized)

125459

1(d). One of the following boxes **must** be checked:

In addition to the names listed in Paragraphs 1(a), 1(b), and 1(c) above, the following is a listing of any and all other individuals who own in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE*** of the land:

N/A

Other than the names listed in Paragraphs 1(a), 1(b), and 1(c) above, no individual owns in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE*** of the land.

2. That no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household owns or has any financial interest in the subject land either individually, by ownership of stock in a corporation owning such land, or through an interest in a partnership owning such land.

EXCEPT AS FOLLOWS: (NOTE: If answer is none, enter "NONE" on the line below.)

None

(check if applicable) There are more interests to be listed and Par. 2 is continued on a "Special Permit/Variance Attachment to Par. 2" form.

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 04-07-2014
(enter date affidavit is notarized)

125459

3. That within the twelve-month period prior to the public hearing of this application, no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household, either directly or by way of partnership in which any of them is a partner, employee, agent, or attorney, or through a partner of any of them, or through a corporation in which any of them is an officer, director, employee, agent, or attorney or holds 10% or more of the outstanding bonds or shares of stock of a particular class, has, or has had any business or financial relationship, other than any ordinary depositor or customer relationship with or by a retail establishment, public utility, or bank, including any gift or donation having a value of more than \$100, singularly or in the aggregate, with any of those listed in Par. 1 above.

EXCEPT AS FOLLOWS: (NOTE: If answer is none, enter "NONE" on line below.)

None

(NOTE: Business or financial relationships of the type described in this paragraph that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearings. See Par. 4 below.)

(check if applicable) [] There are more disclosures to be listed and Par. 3 is continued on a "Special Permit/Variance Attachment to Par. 3" form.

4. That the information contained in this affidavit is complete, that all partnerships, corporations, and trusts owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land have been listed and broken down, and that prior to each and every public hearing on this matter, I will reexamine this affidavit and provide any changed or supplemental information, including business or financial relationships of the type described in Paragraph 3 above, that arise on or after the date of this application.

WITNESS the following signature:

(check one)

[Signature]
 Applicant Applicant's Authorized Agent

Ronald S. Federici
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 07 day of April, 2014, in the State/Comm. of Virginia, County/City of Fairfax County

[Signature]
Notary Public

My commission expires: April 30, 2014



Application No.(s): _____
(county-assigned application number(s), to be entered by County Staff)

Page ____ of ____

Special Permit/Variance Attachment to Par. 1(a)

DATE: 4-7-14
(enter date affidavit is notarized)

125459

(NOTE: All relationships to the application are to be disclosed. Multiple relationships may be listed together, e.g., Attorney/Agent, Contract Purchaser/Lessee, Applicant/Title Owner, etc. For a multiparcel application, list the Tax Map Number(s) of the parcel (s) for each owner(s) in the Relationship column.)

NAME (enter first name, middle initial, and last name)	ADDRESS (enter number, street, city, state, and zip code)	RELATIONSHIP(S) (enter applicable relationships listed in BOLD above)
JOHN LONG, ESQ	5240 Lyngate Ct Bunke, VA 22015	ATTY / AGENT
ROBERT S FEDERICI	13310 COMPTON RD CLIFTON, VA	OWNER 20124

(check if applicable)

[]

There are more relationships to be listed and Par. 1(a) is continued further on a "Special Permit/Variance Attachment to Par. 1(a)" form.



County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County.

NOTICE OF VIOLATION Fairfax County Zoning Ordinance

DATE OF ISSUANCE: May 7, 2013

METHOD OF SERVICE: OFFICE OF THE SHERIFF

LEGAL NOTICE ISSUED TO: Ronald S. Federici
ADDRESS: 13310 Compton Rd.
Clifton, VA 20124

LOCATION OF VIOLATION: 13310 Compton Rd.
Clifton, Virginia 20124-1512

TAX MAP REF: 75-1 ((1)) 24
ZONING DISTRICT: R-C

CASE #: 201104067 **SR #:** 73218

Dear Responsible Party:

An inspection of the above referenced property on March 28, 2013 revealed the following violations of the Fairfax County Zoning Ordinance:

§ 2-501 Limitation on the Number of Dwelling Units on a Lot:

The March 28, 2013 inspection revealed there are at the current time three (3) complete and separate dwelling units on the above-referenced property. The main residence constitutes two (2) complete and separate dwelling units based on the fact that the basement level has a full unpermitted second kitchen and unpermitted wet bar; and the original house on the back of the property behind the existing main residence constitutes another complete and separate dwelling unit. According to a review of Fairfax County Building Department records, the original house was to be converted to a barn or stable building when the existing main residence was constructed in 1989. Part 3 of Article 20 of the Zoning Ordinance defines a dwelling unit as:

One (1) or more rooms in a residential building or residential portion of a building which are arranged, designed, used, or intended for use as a complete, independent living facility which includes provisions for living, sleeping, eating, cooking and sanitation. Occupancy shall be in accordance with the provisions of Sect. 2-502.

Therefore, the presence of more than one dwelling unit on the above-referenced property is in violation of Sect. 2-501 of the Zoning Ordinance which states, in part:

There shall be not more than one (1) dwelling unit on any one (1) lot, nor shall a dwelling unit be located on the same lot with any other principal building....

You are hereby directed to clear this violation within thirty (30) days of the date of this notice. Compliance can be achieved as follows:

- Removing, on a permanent basis, all interior door locks that prevent the free and unfettered access to all common living areas or which may separate different levels of the structures; and
 - Removing, on a permanent basis, all but one kitchen located in the main dwelling to include: the unpermitted wet bar on the basement level, the ovens, microwave, ranges, sinks, cabinets, countertops, refrigerators, and freezers or combinations thereof in the second kitchen of the main dwelling; all other appliances and accoutrements used or intended for use for cooking or eating, and all plumbing, electrical, and gas connections and piping in conjunction with the unpermitted second kitchen and wet bar in the the basement level of the main dwelling; and removing the full kitchen in the original residence located behind the existing main residence which was required to be converted to a barn or stable structure upon the construction of the current main residence built in 1989, and
 - Applying for and obtaining approval from the Fairfax County Building Official (12055 Government Center Parkway, Second Floor, Permit Application Center) for a valid demolition permit for the removal of all electrical circuits, plumbing fixtures and piping and natural gas piping systems which were installed to establish the second kitchen in the main dwelling unit at this property, and obtaining a passing final inspection of such demolition work; and
 - Converting the original residence located behind the existing main residence to a barn or stable structure as agreed upon when building permit 90131B1250 was issued for the existing main residence in 1988 and 1989; and
 - Ceasing, on a permanent basis, the use of all but one (1) dwelling unit, on the property, and restoring the structure such that it contains no more than one (1) dwelling unit.
-

§ 10-104 (10D) Accessory Storage Structure Location
§ 2-302 (6) Accessory Use must comply with Article 10:

The March 28, 2013 inspection found the presence of an accessory storage structure which measured approximately ten (10') feet in height, is approximately 300 square feet in area and is located approximately ten (10') from the side lot line, with an attached covered carport addition approximately two (2') feet from the side lot line.

The Fairfax County Zoning Ordinance permits accessory storage structures to be located in minimum required yards; however, if the structure exceeds eight and one-half (8½) feet in height, it must be located on the lot so as to comply with Par. 10D of Sect. 10-104 of the Zoning Ordinance which states:

An accessory storage structure which exceeds eight and one half (8 ½) feet in height shall not be located in any part of any minimum required side yard.

The minimum required side yard distance in the R-C District is **twenty feet (20')** as detailed in Par. **2(B)2 of Section 3-C07** of the Zoning Ordinance.

Therefore, as this accessory storage structure exceeds eight and one-half (8 ½) feet in height and is not located in accordance with the provisions of Par. 10D of Sect. 10-104 above, it is in violation of Par. 10D of Sect. 10-104 and Par. 6 of Sect. 2-302 of the Zoning Ordinance which states:

No accessory structure or use, as defined in Article 20, shall hereafter be built, moved, remodeled, established, altered or enlarged unless such accessory structure or use complies with the provisions of Par. 1 of Article 10.

You are hereby directed to clear this violation within thirty (30) days of the date of this Notice. Compliance can be accomplished by:

- Removing the storage structure and carport from the property in its entirety; or
- Reducing the height of the structures to eight and one-half (8 ½) feet or less to allow it to remain at its present location; or
- Relocating the structures to a distance of twenty feet (20') from the side lot line in accordance with Par. 10D of Sect. 10-104 of the Zoning Ordinance as outlined above.

As an alternative you may apply to the Fairfax County Board of Zoning Appeals (BZA) and actively pursue and ultimately obtain approval of a Group 9 Special Permit for an error in building location to allow the accessory storage structure to remain at its present height and at its present location. For information and answers to any questions regarding this application process, you may contact the Zoning Evaluation Division at 703-324-1290.

§ 10-104 (9B) Accessory Structures: Animals

The March 28, 2013 inspection of the property found that the existing barn structure utilized for the sheltering of horses does not meet the required zoning setbacks. The barn structure is approximately twenty feet (20') from the side property line. The following regulations shall apply to the location of structures for the housing of animals as per Sect. 2-512 and Paragraph 9B of Sect. 10-104 of the Fairfax County Zoning Ordinance:

B. Barns and other structures used for the confining or sheltering of livestock and domestic fowl, as permitted by the provisions of Sect. 2 512, shall be located no closer than fifty (50) feet to any lot line; provided, however, that **any such structure used for the confining or sheltering of horses and ponies as permitted by Sect. 2 512 or in connection with agriculture shall be located no closer than forty (40) feet to any front or side lot line nor closer than twenty (20) feet to a rear lot line.**

The BZA may approve a modification to the location regulations set forth in this Paragraph in accordance with the provisions of Part 9 of Article 8.

You are hereby directed to clear this violation within thirty (30) days of the date of this Notice. Compliance can be accomplished by:

- Removing the barn structure from the property in its entirety; or
- Relocating the barn structure to a distance of forty feet (40') from the side lot line in accordance with Par. 9B of Sect. 10-104 of the Zoning Ordinance as outlined above.

You may have the right to appeal this Notice of Zoning Violation for the violations regarding the limitation on the number of dwelling units, accessory storage structure location, and accessory storage structures for animals within thirty (30) days of the date of this letter in accordance with Sec. 15.2-2311

Federici Ronald S
May 7, 2013
SR 73218
Page 5

of the Code of Virginia. This decision shall be final and unappealable if it is not appealed within such thirty (30) days. Should you choose to appeal, the appeal must be filed with the Zoning Administrator and the Board of Zoning Appeals (BZA) in accordance with Part 3 of Article 18 of the Fairfax County Zoning Ordinance. Those provisions require the submission of an application form, a written statement setting forth the decision being appealed, the date of decision, the grounds for the appeal, how the appellant is an aggrieved party, any other information that you may wish to submit and a \$600.00 filing fee. Once an appeal application is accepted, it will be scheduled for public hearing and decision before the BZA. For information regarding an appeal contact:

Zoning Administration Division
12055 Government Center Parkway, Suite 807
Fairfax, Virginia 22035
Office: (703)324-1314
Information and forms can also be obtained at <http://www.fairfaxcounty.gov/dpz/bza/appeals/>.

If you have questions, would like to schedule an appointment to meet with an investigator, or schedule a follow up inspection, please contact me directly at (703)324-1395. For any other questions, contact our main office at (703)324-1300.

LEGAL NOTICE ISSUED BY:

Signature

Charles P. Fitzhugh
Code Compliance Investigator II

PERSONAL SERVICE _____

Being unable to make personal service a copy was delivered in the following manner:

- Delivered to a person found in charge of usual place of business or employment during business hours and giving information of its purport.
- Delivered to family member (not temporary sojourner or guest) age 16 or older at usual place of abode or party named above after giving information its purport. List name, age of recipient, and relation of recipient to party named above.

- Posted on front door or such other door as appears to be the main entrance of usual place of abode, address listed above (Other authorized recipient not found).

Served on a Secretary of the Commonwealth.

Not found.

SERVING OFFICER

_____ for _____

DATE _____

PERSONAL SERVICE _____

Being unable to make personal service a copy was delivered in the following manner:

- Delivered to a person found in charge of usual place of business or employment during business hours and giving information of its purport.
- Delivered to family member (not temporary sojourner or guest) age 16 or older at usual place of abode or party named above after giving information its purport. List name, age of recipient, and relation of recipient to party named above.

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Served on a Secretary of the Commonwealth.

Not found.

SERVING OFFICER

_____ for _____

DATE _____

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SERVING OFFICER

_____ for _____

DATE _____

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Served on a Secretary of the Commonwealth.

Not found.

SERVING OFFICER

_____ for _____

DATE _____



County of Fairfax, Virginia

MEMORANDUM

DATE: December 1, 2014

TO: Carmen Bishop, Planner II
Zoning Evaluation Division, DPZ

FROM: Hugh Whitehead, Urban Forester III
Forest Conservation Branch, DPWES

SUBJECT: Ivakota Farm, Lot 24, SP 2014-SP-232

I have reviewed the above referenced Special Permit application including a Statement of Justification and a Special Permit plat of the subject property, stamped as received by the Zoning Evaluation Division on May 9, 2014. The following comments and recommendations are based on this review. A site visit was conducted on November 25, 2014.

1. **Comment:** The gazebo encroaches into the setback. To increase buffering capacity of the reduced setback, three large shrubs or two small trees should be planted between the gazebo and the property boundary.

Recommendation: Require the installation of three large shrubs or two small trees between the gazebo and the southern property line.

2. **Comment:** The shed encroaches into the setback. To increase the buffering capacity of the reduced setback, evergreen trees should be planted to shield Shed B from the neighboring property.

Recommendation: Require the Applicant to plant two evergreen trees, one off the northwest corner of Shed B and one on the northeast side of the path from the barn to the Shed B. Recommended species include Green Giant arborvitae.

If there are any questions, please contact me at (703)324-1770.

HCW/
UFMDID #: 198021

cc: DPZ File

Department of Public Works and Environmental Services
Urban Forest Management Division
12055 Government Center Parkway, Suite 518
Fairfax, Virginia 22035-5503
Phone 703-324-1770, TTY: 711, Fax: 703-653-9550
www.fairfaxcounty.gov/dpwes





County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

January 16, 2015

Ronald and Petric Federici
13310 Compton Road
Clifton, VA 20124

Re: Second Kitchen Request (ID# 1400)
13310 Compton Road
Tax Map #75-1 ((1)) 24

Dear Messrs. Federici:

I have reviewed your request to approve the existing second kitchen in the basement of the home at the above-referenced address. Based on your narrative statement, floor plans, and conversations between Zoning staff and Charlie Fitzhugh, Code Compliance Investigator III, Department of Code Compliance, it has been determined that the second kitchen will be used by family members and friends for recreation and entertainment. It has further been determined that the basement consists of three separate rooms that include one full bathroom, an independent means of ingress/egress, a wet bar consisting of a bar sink and counter and a kitchen consisting of a sink, a refrigerator, an electric stove/oven, a microwave oven, countertops and cabinets. I further note that the bed which was present in the large open area adjacent to the second kitchen has since been permanently removed at the request of Mr. Fitzhugh.

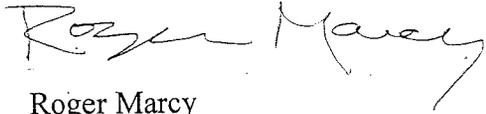
Based on the information provided this office and your statement that the second kitchen will be used for purposes of recreation and entertainment and is not intended to create an independent dwelling unit, your request has been approved and a copy of the approved Affidavit is enclosed for your reference. **As it has been determined by Mr. Fitzhugh that the requisite building and trade permits were not obtained for either the second kitchen or the independent wet bar, you are required to secure all necessary building and trade permits for the second kitchen and wet bar and final building inspection approval(s) for these permits. The granting of your second kitchen request by this office is contingent upon the successful execution of these requirements.** This approval is granted with the understanding that the second kitchen will not be utilized in such a manner as to create an independent dwelling unit on the property and must never be marketed as having a separate dwelling. Further, future owner(s) of the home must reapply with this office in order to continue the use of the second kitchen in the basement.

Department of Planning and Zoning
Zoning Administration Division
Zoning Permit Review Branch
12055 Government Center Parkway, Suite 250
Fairfax, Virginia 22035-5508
Phone 703-324-1359 FAX 703-324-2301
www.fairfaxcounty.gov/dpz/

Ronald and Petric Federici
January 16, 2015
Page 2

I trust this satisfactorily addresses your request. If you have any additional questions, please feel free to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Roger Marcy".

Roger Marcy
Assistant Branch Chief for
Zoning Permit Review Branch

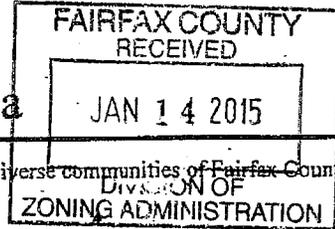
Attachment: A/S

cc: Leslie B. Johnson, Zoning Administrator
Charlie Fitzhugh, Code Compliance Investigator III, Department of Code Compliance
Carmen Bishop, Planner, Zoning Evaluation Division



County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County



ID# 1400
(Zoning Use)

SECOND KITCHEN AFFIDAVIT

NAME: RONALD FEDERICA TAX MAP NO: 075-1(01)0024
ADDRESS: 13310 COMPTON RD CLIFTON VA 20124
SUBDIVISION: IVAKOTA FARM DATE: 1-8-15

DEFINITION OF A DWELLING UNIT PER THE FAIRFAX COUNTY ZONING ORDINANCE: One (1) or more rooms in a residential building or residential portion of a building which are arranged, designed, used, or intended for use as a complete, independent living facility which includes permanent provisions for living, sleeping, eating, cooking, and sanitation. Occupancy shall be in accordance with the provisions of Sect. 2-502.

I certify that I am a bona fide resident and/or owner of the residence identified above and that I have read the above definition of Dwelling Unit as set forth in Article 20 of the Fairfax County (County) Zoning Ordinance. I certify that I understand that the creation or maintenance of a second dwelling unit upon this property is a violation of the Fairfax County Zoning Ordinance and that any such creation or maintenance of a second dwelling unit will be subject to the initiation of legal action by the County in order to correct such a violation.

I do, however, wish to develop within this dwelling a second kitchen to be principally used by a member or members of my family who reside on this same property. I certify that the kitchen will not be used in combination with other living space components in such a manner as to constitute the establishment of an independent living facility, and that the kitchen will not be used by persons who are not related to me by blood or marriage other than visitors, short-term house guests, and those providing services during social functions. For Property Owners Only: In the event that I offer my property for sale, I certify that the property will not be advertised as containing a separate apartment or dwelling unit. Likewise, I understand that the new owner will be required to receive approval from this office in order to continue the use of a second kitchen in the home.

I understand that a copy of this letter will become a permanent part of the County's records and may be used to demonstrate that the County's approval of my second kitchen was, in no way, an authorization to establish an apartment or second dwelling unit in my residence. I certify that I will make the residence available, upon request, for inspection by County personnel during reasonable hours. Further, I understand that the establishment of a second dwelling unit in my residence will result not only in the revocation of my second kitchen approval but in the complete removal of the second kitchen from my home.

Signature of Resident/Owner: Ronald Federa (son-occupant) Phone Number: 703 222 8396

Based upon the above certifications, and with the understanding that the approval requested will not result in a separate dwelling unit or apartment on the identified property, I hereby authorize zoning approval of the requested second kitchen.

Zoning Administrator: _____ Date: _____

APPROVED

RM 1-16-15

David B. Johnson
Zoning Administrator

Department of Planning and Zoning
Zoning Administration Division
Zoning Permit Review Branch
12055 Government Center Parkway, Suite 250
Fairfax, Virginia 22035-5508
Phone 703-324-1359 FAX 703-324-2301
www.fairfaxcounty.gov/dpz/



Diane Johnson-Quinn
Deputy Zoning Administrator
Zoning Permit Review Branch
12055 Government Center Parkway
Suite 250
Fairfax, VA 22035

Re: Second Kitchen Application
13310 Compton Road
Clifton, VA 20124

Dear Ms. Johnson-Quinn/BZA

I am making application to keep in place a "second kitchen" that was built at the property before I purchased the home in 2002. The area contains a sink, a refrigerator, an electric stove/microwave unit, and four cabinets. The refrigerator and the electric stove/microwave unit are generally unplugged when not in use.

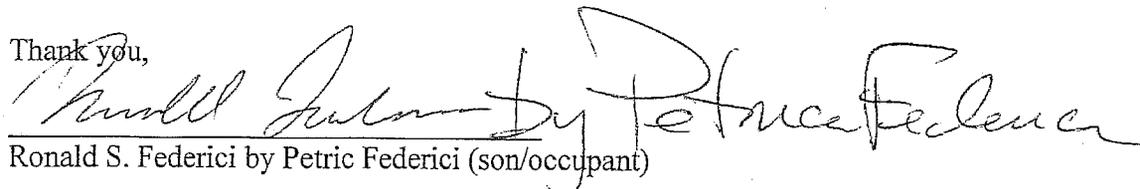
The Second Kitchen is rarely used, but when it is used it is in connection with a social event, such as when friends gather to play pool (we have a pool table on that level), or when the outdoor pool is used during the summer. Even in those instances, the use that is made is limited generally to keeping drinks cold in the refrigerator and making light snacks to eat. Currently all appliances are disconnected. We don't use the area for storing food or drinks, or for cooking or eating meals.

The lower level is not used as a bedroom or living space in any way. There is no bedroom space on that level. There are also no beds on that level. There is adequate bedroom space on the upper level of the home, where everyone sleeps.

The lower level has never been intended to be used as a living space and there is no intention to use it in that way, or to try and lease it to someone as a living space. The entire home is only occupied by family members and we all have our own bedrooms.

I hope you will allow the Second Kitchen area to remain in place. Please let me know if you need additional information from me about the Second Kitchen or our use of that area.

Thank you,

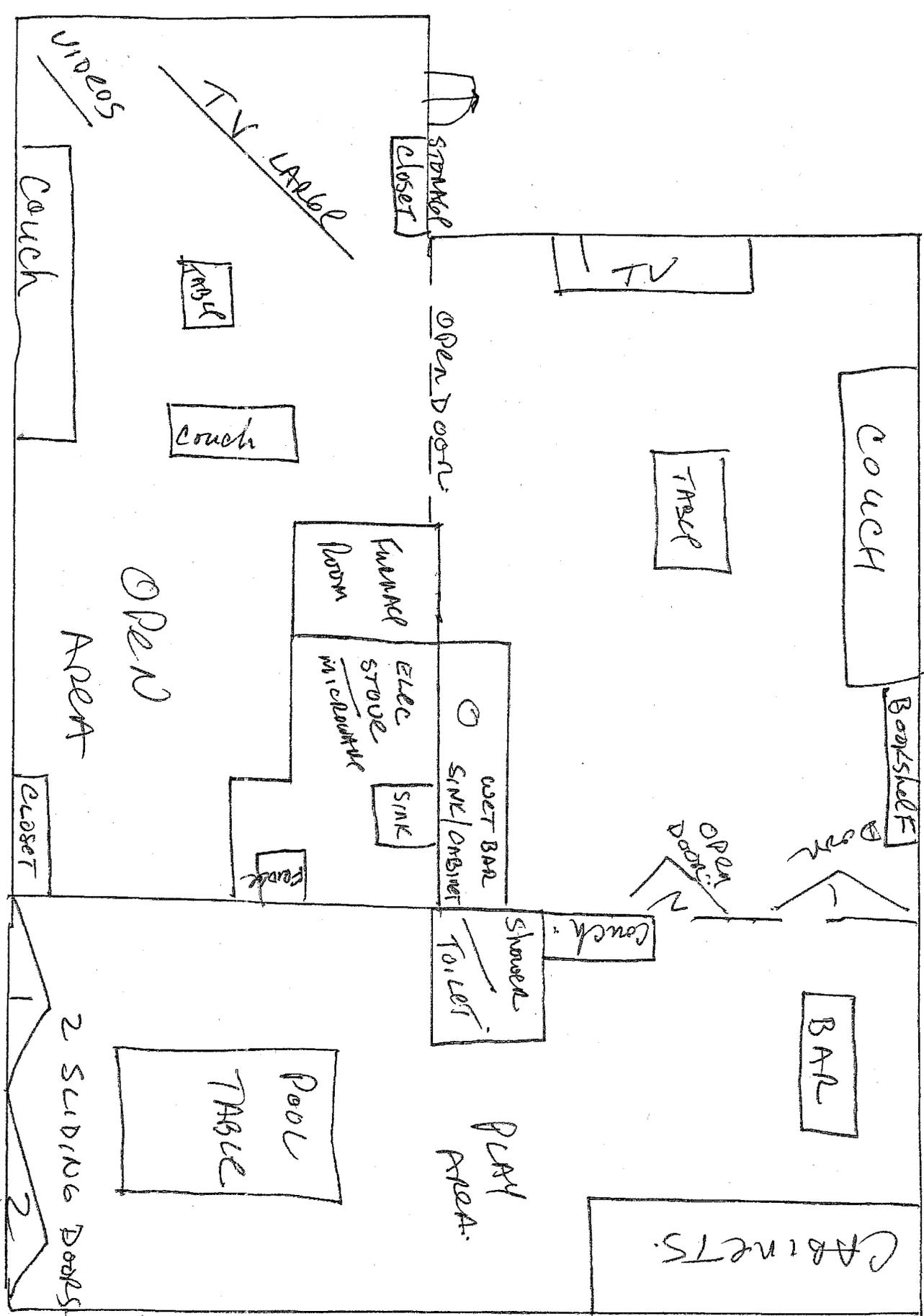

Ronald S. Federici by Petric Federici (son/occupant)

APPROVED

RM 1-16-15


Zoning Administrator

Lower Level



STAIRS

**BUILDING -
 PERMIT APPLICATION**

APPLICATION NO

11-22-1988

Date

JOB LOCATION

Street 13310 COMPTON RD CLIFTON
 Building _____ Floor _____ Suite _____
 Subdivision BEECHNUT ACRES
 Tenants Name LOT A-5, PARCEL D

DO NOT WRITE IN THIS SPACE

Permit No. 0034708740
 Map Reference 75-7-1-2234
 Building Permit No. _____ Control No. _____
 Std. _____ Mag. _____ Plan _____ Census _____

OWNER
 Name MARITA WILLOUGHBY
 Address (Mailing) 13532 University Blvd
 City _____ State _____ Zip _____
 Telephone 703 631-7027

CONTRACTOR
 Company Name WILLIAM A. DARNE CONT. INC.
 Master _____
 Address 12801 FAIRLAKES PKWY SUITE 110
 City FAIRFAX State VA Zip 22033
 Telephone 631-8378 License No. _____
 State Contractors License No. 025692
 County Business Account No. 02-3389

For SINGLE FAM RESIDENCE

ROUTING

Description _____
 Model/Use Custom Home
 Sewage: Public Community Septic Tank None
 WATER: Public Individual Well None
 N-New D-Demolish
 R-Alter or Repair M-Move
 A-Add To O-Other

	Date	Approved By:
Health Review	2/7/89	SB
Site Review		
Zoning Review	1/31/89	WCF
Sanitation Review		
Building Review	3-5-89	WCF
Fire Review		

REMARKS:

BUILDING DESCRIPTION	QUANTITY
# Units	1
# Stories	2
# Rooms	12
# Bedrooms	3
# To be Added	0
# Baths	2
# Half Baths	1
# Kitchens	1
# Fireplaces	3
Basement	yes
% Basements to Finish	—

Use Group of Building 24
 Type of Construction SB
 Building Area _____
 Estimated Const. Cost 190,000

BUILDING DIMENSIONS			
No. Stories	Width	Depth	Sq. Ft.
	X	=	
	X	=	
	X	=	
	X	=	

ZONING REVIEW
 Zoning Proffers Building _____
 Zoning Class R-1
 Zoning Case # _____

YARDS	Front	Front	Left Side	Right Side	Rear
		58+	81	20+	25+

REMARKS S/FID TO BECOME STABLE QUARTERS
NOT LIVING QUARTERS
 Already existing S/FID - Barn on the address...
 The zoning plan...
 Customer stated that they would be transferring the S/FID - Barn to be a stable.
 Still waiting for final confirmation on this.

FOR COUNTY USE ONLY:

Date <u>3/23/89</u> By <u>W</u> Approved for Issuance of Building Permit	Fee _____ Filing Fee _____ Amount Due <u>171.00</u>
---	---

The request for and use of personal information on this form is subject to the provisions of the Privacy Protection Act of 1976 and the Freedom of Information Act.

I hereby certify that I have authority of the owner to make this application, that the information is complete and correct, and that if a permit is issued the construction and/or use will conform to the building code, the zoning ordinance and applicable laws and regulations including private building restrictions, if any, which relate to the property. He/She and the contractor organization named and represented herein is duly registered or exempt from registration in accord with the Code of Virginia.

Signature of Owner or Agent _____ Date _____ Notary Signature _____ Date _____

BUILDING PERMIT APPLICATION

APPLICATION NO
 MAY 11 1990
 Date

RH 4/007

Street 13310 Compton Rd
 Building _____ Floor _____ Suite _____
 Subdivision IVAKOTA FARM
 Tenants Name _____

DO NOT WRITE IN THIS SPACE
 Permit No. 90131B1250
 Map Reference 75-1 (C1) 24
 Building Permit No. _____ Control No. _____
 Std. _____ Mag. _____ Plan _____ Census _____

OWNER
 Name MARITA G. Willoughby
 Address (Mailing) 13532 Union Village Circle
 City Clifton State VA Zip 22024
 Telephone 631-7827

CONTRACTOR
 Company Name _____
 Master _____
 Address OWNER
 City _____ State _____ Zip _____
 Telephone _____ License No. _____
 State Contractors License No. _____
 County Business Account No. _____

For Build A Custom Home Description

REPLACES 88347B0740

Model/Use _____
 Sewage: Public Community Septic Tank None
 WATER: Public Individual Well None
 N-New D-Demolish
 R-Alter or Repair M-Move
 A-Add To O-Other

REMARKS:

BUILDING DESCRIPTION	QUANTITY
# Units	<u>1</u>
# Stories	<u>2</u>
# Rooms	<u>12</u>
# Bedrooms	<u>3</u>
# To be Added	<u>0</u>
# Baths	<u>3</u>
# Half Baths	<u>1</u>
# Kitchens	<u>1</u>
# Fireplaces	<u>1</u>
Basement	_____
% Basements to Finish	_____

BUILDING DIMENSIONS			
No. Stories	Width	Depth	Sq. Ft.
	X	=	
	X	=	
	X	=	
	X	=	

YARDS	Front	Front	Left Side	Right Side	Rear
<u>Average</u>	<u>58'</u>	<u>81'</u>	<u>0'</u>	<u>25'</u>	<u>0'</u>

REMARKS STD to become stable unit 89041D
per note on DDC- 88347B0740

FOR COUNTY USE ONLY:

Date May 11 1990 By G.B.
 Approved for Issuance of Building Permit

Fee 348.10
 Filing Fee _____
 Amount Due 174.08

The request for and use of personal information on this form is subject to the provisions of the Privacy Protection Act of 1976 and the Freedom of Information Act.
 I hereby certify that I have authority of the owner to make this application, that the information is complete and correct, and that if a permit is issued the construction and/or use will conform to the building code, the zoning ordinance and other applicable laws and regulations including private building restrictions, if any, which relate to the property. He/She and the company or organization named and represented herein is duly registered or exempt from registration in accord with the provisions of Chapter 7 of the Code of Virginia.
 Signature of Owner or Agent _____ Date _____ Notary Signature _____ Date _____

ZONING ORDINANCE PROVISIONS

8-006 General Standards

In addition to the specific standards set forth hereinafter with regard to particular special permit uses, all special permit uses shall satisfy the following general standards:

1. The proposed use at the specified location shall be in harmony with the adopted comprehensive plan.
2. The proposed use shall be in harmony with the general purpose and intent of the applicable zoning district regulations.
3. The proposed use shall be such that it will be harmonious with and will not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations and the adopted comprehensive plan. The location, size and height of buildings, structures, walls and fences, and the nature and extent of screening, buffering and landscaping shall be such that the use will not hinder or discourage the appropriate development and use of adjacent or nearby land and/or buildings or impair the value thereof.
4. The proposed use shall be such that pedestrian and vehicular traffic associated with such use will not be hazardous or conflict with the existing and anticipated traffic in the neighborhood.
5. In addition to the standards which may be set forth in this Article for a particular group or use, the BZA shall require landscaping and screening in accordance with the provisions of Article 13.
6. Open space shall be provided in an amount equivalent to that specified for the zoning district in which the proposed use is located.
7. Adequate utility, drainage, parking, loading and other necessary facilities to serve the proposed use shall be provided. Parking and loading requirements shall be in accordance with the provisions of Article 11.
8. Signs shall be regulated by the provisions of Article 12; however, the BZA, under the authority presented in Sect. 007 below, may impose more strict requirements for a given use than those set forth in this Ordinance.

8-903 Standards for all Group 9 Uses

In addition to the general standards set forth in Sect. 006 above, all Group 9 special permit uses shall satisfy the following standards:

1. All uses shall comply with the lot size and bulk regulations of the zoning district in which located, except as may be qualified below.
2. All uses shall comply with the performance standards specified for the zoning district in which located.
3. Before establishment, all uses, including modifications or alterations to existing uses, shall be subject to the provisions of Article 17, Site Plans, or other appropriate submission as determined by the Director.

8-914 Provisions for Approval of Reduction to the Minimum Yard Requirements Based on Error in Building Location, Par 2 and 3

2. The BZA determines that:
 - A. The error exceeds ten (10) percent of the measurement involved, or
 - B. The error is up to ten (10) percent of the measurement involved and such reduction or modification is requested in conjunction with the approval of a special permit for another use or application for a variance on the property, or is in conjunction with another special permit for an error in building location on the property that exceeds ten (10) percent of the measurement involved, and
 - C. The noncompliance was done in good faith, or through no fault of the property owner, or was the result of an error in the relocation of the building subsequent to the issuance of a Building Permit, if such was required, and
 - D. Such reduction or modification will not impair the purpose and intent of this Ordinance, and
 - E. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and
 - F. It will not create an unsafe condition with respect to both other property and public streets, and
 - G. To force compliance with the minimum yard requirements or location regulations would cause unreasonable hardship upon the owner.

H. The reduction or modification will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.

3. In granting such a reduction or modification under the provisions of this Section, the BZA shall allow only a reduction or modification necessary to provide reasonable relief and may, as deemed advisable, prescribe such conditions, to include landscaping and screening measures, to assure compliance with the intent of this Ordinance.

8-918 Additional Standards for Accessory Dwelling Units

As established by the Fairfax County Board of Supervisors' Policy on Accessory Dwelling Units (Appendix 5), the BZA may approve a special permit for the establishment of an accessory dwelling unit with a single family detached dwelling unit but only in accordance with the following conditions:

1. Accessory dwelling units shall only be permitted in association with a single family detached dwelling unit and there shall be no more than one accessory dwelling unit per single family detached dwelling unit.
2. Except on lots two (2) acres or larger, an accessory dwelling unit shall be located within the structure of a single family detached dwelling unit. Any added external entrances for the accessory dwelling unit shall be located on the side or rear of the structure.

On lots two (2) acres or greater in area, an accessory dwelling unit may be located within the structure of a single family detached dwelling unit or within a freestanding accessory structure.

3. The gross floor area of the accessory dwelling unit shall not exceed thirty-five (35) percent of the total gross floor area of the principal dwelling unit. When the accessory dwelling unit is located in a freestanding accessory structure, the gross floor area of the accessory dwelling unit shall not exceed thirty-five (35) percent of the gross floor area of the accessory freestanding structure and the principal dwelling unit.
4. The accessory dwelling unit shall contain not more than two (2) bedrooms.
5. The occupancy of the accessory dwelling unit and the principal dwelling unit shall be in accordance with the following:
 - A. One of the dwelling units shall be owner occupied.

B. One of the dwelling units shall be occupied by a person or persons who qualify as elderly and/or disabled as specified below:

(1) Any person fifty-five (55) years of age or over and/or

(2) Any person permanently and totally disabled. If the application is made in reference to a person because of permanent and total disability, the application shall be accompanied by a certification by the Social Security Administration, the Veterans Administration or the Railroad Retirement Board. If such person is not eligible for certification by any of these agencies, there shall be submitted a written declaration signed by two (2) medical doctors licensed to practice medicine, to the effect that such person is permanently and totally disabled. The written statement of at least one of the doctors shall be based upon a physical examination of the person by the doctor. One of the doctors may submit a written statement based upon medical information contained in the records of the Civil Service Commission which is relevant to the standards for determining permanent and total disability.

For purposes of this Section, a person shall be considered permanently and totally disabled if such person is certified as required by this Section as unable to engage in any substantial gainful activity by reasons of any medically determinable physical or mental impairment or deformity which can be expected to result in death or can be expected to last for the duration of the person's life.

C. The accessory dwelling unit may be occupied by not more than two (2) persons not necessarily related by blood or marriage. The principal single family dwelling unit may be occupied by not more than one (1) of the following:

(1) One (1) family, which consists of one (1) person or two (2) or more persons related by blood or marriage and with any number of natural children, foster children, step children or adopted children.

(2) A group of not more than four (4) persons not necessarily related by blood or marriage.

6. Any accessory dwelling unit established for occupancy by a disabled person shall provide for reasonable access and mobility as required for the disabled person. The measures for reasonable access and mobility shall be specified in the application for special permit. Generally, reasonable access and mobility for physically disabled persons shall include:

A. Uninterrupted access to one (1) entrance; and

B. Accessibility and usability of one (1) toilet room.

7. The BZA shall review all existing and/or proposed parking to determine if such parking is sufficient to meet the needs of the principal and accessory dwelling units. If it is determined that such parking is insufficient, the BZA may require the provision of one (1) or more off-street parking spaces. Such parking shall be in addition to the requirements specified in Article 11 for a single family dwelling unit.
8. The BZA shall determine that the proposed accessory dwelling unit together with any other accessory dwelling unit(s) within the area will not constitute sufficient change to modify or disrupt the predominant character of the neighborhood. In no instance shall the approval of a special permit for an accessory dwelling unit be deemed a subdivision of the principal dwelling unit or lot.
9. Any accessory dwelling unit shall meet the applicable regulations for building, safety, health and sanitation.
10. Upon the approval of a special permit, the Clerk to the Board of Zoning Appeals shall cause to be recorded among the land records of Fairfax County a copy of the BZA's approval, including all accompanying conditions. Said resolution shall contain a description of the subject property and shall be indexed in the Grantor Index in the name of the property owners.
11. The owner shall make provisions to allow inspections of the property by County personnel during reasonable hours upon prior notice.
12. Special permits for accessory dwelling units shall be approved for a period not to exceed five (5) years from the date of approval; provided, however, that such special permits may be extended for succeeding five (5) year periods in accordance with the provisions of Sect. 012 above.
13. Notwithstanding Par. 5 of Sect. 9-012, any accessory dwelling unit approved prior to July 27, 1987 and currently valid may be extended in accordance with the provisions of this Section and Sect. 012 above.